

117TH CONGRESS
1ST SESSION

S. 2034

To amend the Small Business Act to require that consumer reporting agencies and other credit reporting companies provide certain protections to small businesses, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JUNE 10, 2021

Mr. RUBIO (for himself, Mr. COONS, Mr. KENNEDY, and Mr. WARNOCK) introduced the following bill; which was read twice and referred to the Committee on Small Business and Entrepreneurship

A BILL

To amend the Small Business Act to require that consumer reporting agencies and other credit reporting companies provide certain protections to small businesses, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Small Business Credit
5 Protection Act”.

6 **SEC. 2. DATA BREACHES.**

7 (a) IN GENERAL.—The Small Business Act (15
8 U.S.C. 631 et seq.) is amended—

1 (1) by redesignating section 49 (15 U.S.C. 631
2 note) as section 50; and

3 (2) by inserting after section 48 (15 U.S.C.
4 657u) the following:

5 **“SEC. 49. DATA BREACHES.**

6 “(a) DEFINITION.—In this section—

7 “(1) the term ‘consumer report’ has the mean-
8 ing given the term in section 603 of the Fair Credit
9 Reporting Act (15 U.S.C. 1681a); and

10 “(2) the term ‘credit reporting company’—

11 “(A) has the meaning given the term ‘con-
12 sumer reporting agency’ in section 603 of the
13 Fair Credit Reporting Act (15 U.S.C. 1681a);
14 and

15 “(B) includes an entity that collects com-
16 mercial credit data.

17 “(b) REQUIREMENTS FOR REPORTING BREACHES.—

18 “(1) APPLICABLE STATE LAW.—

19 “(A) IN GENERAL.—Except as provided in
20 paragraph (2), if nonpublic data of a small
21 business concern that is collected or stored by
22 a credit reporting company has been breached,
23 the credit reporting company shall report the
24 breach promptly and not later than as required

1 under the law of the State in which the small
2 business concern is located.

3 “(B) LOCATIONS IN MULTIPLE STATES.—

4 If a small business concern that is affected by
5 a breach described in subparagraph (A) has lo-
6 cations in more than 1 State, for the purposes
7 of that subparagraph, the law of the State that
8 imposes the shortest period for the reporting of
9 the breach shall apply.

10 “(2) EXCEPTION.—

11 “(A) IN GENERAL.—If a small business
12 concern that is affected by a breach described
13 in paragraph (1)(A) is located in a State that
14 does not have a law that imposes a set period
15 for the reporting of the breach, the credit re-
16 porting company to which the requirement
17 under that paragraph applies shall report the
18 breach in the most expeditious manner prac-
19 ticable and without unreasonable delay.

20 “(B) RULE OF CONSTRUCTION REGARDING

21 A LAW ENFORCEMENT REQUEST.—For the pur-
22 poses of subparagraph (A), a delay with respect
23 to the reporting of a breach described in that
24 subparagraph that is caused by a requirement
25 to respond to a request submitted by a law en-

1 forcement agency shall be construed to be a
2 reasonable delay.

3 “(c) PROHIBITION.—During the 180-day period be-
4 ginning on the date on which a breach described in sub-
5 section (b)(1)(A) occurs, a credit reporting company may
6 not charge a small business concern that is affected by
7 that breach for providing the small business concern with
8 the consumer report of the small business concern.

9 “(d) NO PREEMPTION.—Nothing in this section shall
10 preempt any State law with respect to credit reporting
11 companies.”.

12 (b) GAO REPORT.—

13 (1) DEFINITIONS.—In this subsection—

14 (A) the term “credit reporting company”—

15 (i) has the meaning given the term
16 “consumer reporting agency” in section
17 603 of the Fair Credit Reporting Act (15
18 U.S.C. 1681a); and

19 (ii) includes an entity that collects
20 commercial credit data; and

21 (B) the term “small business concern” has
22 the meaning given the term in section 3 of the
23 Small Business Act (15 U.S.C. 632).

24 (2) REPORT.—Not later than 1 year after the
25 date of enactment of this Act, the Comptroller Gen-

1 eral of the United States shall submit to Congress
2 a report regarding the economic harm incurred by
3 small business concerns as a result of data breaches
4 at credit reporting companies.

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